

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

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INTELLECTUAL PROPERTY LAW
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OCT 05 2007

BOARD OF PATENT APPEALS
AND INTERFERENCES

Deliver to: ATTN: Carolyn Johnson Art Group: BPAI
Company Name: USPTO
Facsimile No.: 571-273-0300 Date: October 5, 2007
From: William Thomas Babbitt, Reg. No. 39,591
Our Docket No.: 42390P5769 Number of pages 13 including this sheet.
Application: 09/109,261 Filing Date: 6/30/1998

Subject

Appeal No. 2007-3807

Remarks

ATTN: Carolyn Johnson

Per our telephone conversation of today's date, please find enclosed copies of our original Reply Brief mailed on April 10, 2006 and a Petition for Consideration of Reply Brief faxed on August 24, 2007. Also enclosed for completeness are copies of the transmittal letter and fee transmittal letter sent with our August 24, 2007 submission.

If necessary, please charge \$130 petition filing fee to Deposit Account No. 02-2666. If you have any questions or need anything further in order to process this reply, please do not hesitate to contact me. Thank you.

Very truly yours,
BLAKELY SOKOLOFF TAYLOR & ZAFMAN

Suzanne Johnston
for W. Thomas Babbitt

Confidentiality Note: The documents accompanying this facsimile transmission contain information from the law firm of Blakely, Sokoloff, Taylor & Zafman which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

If you do not receive all the pages, or if there is any difficulty in receiving, please call: (310) 207-3800 and ask for Nedy Calderon.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/109,261
		Filing Date	June 30, 1998
		First Named Inventor	Gang Bai
		Art Unit	2815
		Examiner Name	Warren, Matthew E.
Total Number of Pages in This Submission	13	Attorney Docket Number	42390P5769

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Copies of Reply Brief; transmittal form; fee transmittal & postcard mailed 4/10/2006; Affidavit of Nedy Calderon </div>
Remarks **PLEASE CHARGE \$130 PETITION FILING FEE TO DEPOSIT ACCOUNT NO. 02-2666**		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	William Thomas Babbitt, Reg. No. 39,591 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	<i>William T. Babbitt</i>
Date	August 24, 2007

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being transmitted via facsimile on the date shown below to the United States Patent and Trademark Office.			
Typed or printed name	Nedy Calderon		
Signature	<i>Nedy Calderon</i>	Date	August 24, 2007

FEE TRANSMITTAL for FY 2006

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$) 130.00

Complete if Known

Application Number 09/109,261
Filing Date June 30, 1998
First Named Inventor Gang Bai
Examiner Name Warren, Matthew E.
Art Unit 2815
Attorney Docket No. 42390P5769

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☒ Money Order ☒ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below

☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application.

☒ Credit any overpayments

☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

FEE CALCULATION

1. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
10	20	0	\$0.00
Independent Claims	2	3	0
Multiple Dependent			

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description
1202	2202	50	25	Claims in excess of 20
1201	2201	200	100	Independent claims in excess of 3
1203	2203	350	180	Multiple Dependent claim, if not paid
1204	2204	750	355	Reissue independent claims over original patent
1205	2205	300	150	Reissue claims in excess of 20 and over original patent

SUBTOTAL (1)

(\$) 0.00

2. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
1051	130	2051	65	Surcharge - late filing fee or oath
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet
2053	130	2053	130	Non-English specification
1251	120	2251	60	Extension for reply within first month
1252	450	2252	225	Extension for reply within second month
1253	1,020	2253	510	Extension for reply within third month
1254	1,590	2254	795	Extension for reply within fourth month
1255	2,160	2255	1,080	Extension for reply within fifth month
1401	500	2401	250	Notice of Appeal
1402	500	2402	250	Filing a brief in support of an appeal
1403	1,000	2403	500	Request for oral hearing
1451	1,510	2451	1,510	Petition to institute a public use proceeding
1450	130	2450	130	Petitions to the Commissioner
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)
1806	180	1806	180	Submission of Information Disclosure Sheet
1809	750	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))
1810	750	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))

Other fee (specify)

SUBTOTAL (2)

(\$) 130.00

Fee Paid

130.00

SUBMITTED BY

Name (Print/Type) William Thomas Babbitt

Registration No. (Attorney/Agent) 39,591

Complete (if applicable)

Telephone (310) 207-3800

Signature

Date 08/24/07

Based on PTO/EB/17 (02-07) as modified by Blakely, Sokoloff, Taylor & Zafman (wtr) 02/26/2007.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Our Ref. No.: 042390.P5769

**BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Gang BaiApplication No.: **09/109,261**Appeal No.: **2007-3807**Filed: **June 30, 1998**For: **A MULTI-LAYER GATE DIELECTRIC**Examiner: **Warren, Matthew E.**Art Unit: **2815****PETITION FOR CONSIDERATION OF REPLY BRIEF**

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicant filed a Reply Brief on April 10, 2006 for the above-referenced Application.

We received a Docketing Notice dated August 3, 2007 from the Board of Patent Appeals and Interferences stating that a Reply Brief was not received for the above-referenced Application. Applicant fears the Reply Brief is misplaced or lost. Accordingly, Applicant hereby petitions that the Reply Brief mailed April 10, 2006 be considered and be established for review by the Patent Office of the Application.

Applicant includes herewith a copy of the following materials filed April 10, 2006:

1. Reply Brief (3 pages);
2. Transmittal form;
3. Fee transmittal; and
4. Return receipt postcard;

The above-referenced documents were mailed on April 10, 2006. Enclosed is an affidavit by Nedy Calderon, an employee of Blakely, Sokoloff, Taylor & Zafman LLP attesting to the delivery of the envelope containing the above-referenced documents at a designated United States Post Office prior to the last scheduled receipt time for that day.

In view of the above, Applicant respectfully petitions that the Reply Brief: be considered at the earliest possible date.

Applicant authorizes the Patent Office to charge the petition fee of \$130 and any additional fees to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 8/24/07

By: William T. Babbitt

William Thomas Babbitt, Reg. No. 39,591

1279 Oakmead Parkway
Sunnyvale, California 94085-4040
Telephone (310) 207-3800
Facsimile (408) 720-8383

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office.

Nedy Calderon
Nedy Calderon

8/24/07
Date

Our Ref. No.: 042390.P5769

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of:

Gang Bai

Application No.: 09/109,261

Appeal No.: 2007-3807

Filed: June 30, 1998

For: **A MULTI-LAYER GATE DIELECTRIC**

Examiner: **Warren, Matthew E.**

Art Unit: **2815**

AFFIDAVIT OF NEDY CALDERON

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Nedy Calderon, declare as follows:

1. I am employed by Blakely, Sokoloff, Taylor & Zafman LLP. My job duties include preparing and filing patent applications.
2. On April 10, 2006, I prepared the Reply Brief for mailing in response to the Examiner's Answer dated February 10, 2006.
3. The Reply Brief (3 pages) with a Transmittal Letter, duplicate copies of the Fee Transmittal and a return receipt postcard was put in an envelope.
4. The above-mentioned envelope was deposited at a designated United States Post Office mail box, zip code 90025, which is prior to the last scheduled pick-up for the day at 5:00 p.m.

5. I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of the application or any registration issued thereon.

Dated: 8/24/07

Nedy Calderon
Nedy Calderon